IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

CIVIL APPLICATION NO. 665 OF 2005.

IN

SECOND APPEAL NO.539 OF 1995.

Smt.Manjula Rajendra Pandav : Applicant.

versus

Rajendra Narahari Pandav : Respondent.

Ms.Gauri Godse for the applicant.

Mr.A.L.Kumar for the respondent.

CORAM : D.G.DESHPANDE,J.

DATED : 5th May 2005.

ORDER [IN CHAMBER]

1. The applicant/wife has filed this application for maintenance on two counts i.e. for medical expenses as she is suffering from sever bronchitis and she has to depend on oxygen and for which she has to pay and, also she has prayed that till the appeal is decided and disposed of, the respondent/husband be directed

to pay her monthly maintenance of Rs.4000/-.

2. This application is opposed by the husband. His case is that firstly, the application for maintenance of wife was rejected during trial in 1989. She is still working as a nurse; she has not filed any document to the effect that she has been removed from the service on account of illness or any other count; she has sufficient source of income as such and further in no case giving maintenance of Rs.4000/- the applicant could arise, because the salary of the respondent, who is serving with the BMC in water department, as per the salary certificate produced is Rs.10388/- and after deduction he gets Rs.6102/- per month. The husband has to maintain his bed ridden mother and, therefore, for all these circumstances, the husband contended that the application for maintenance and for medical expenses be dismissed.

3. I have given my anxious consideration to the submissions made by both the advocates. It might be that the earlier maintenance application of the wife was rejected by the trial Court in

1989. Because at that time she was serving. Now she has lost her job. Since 1989 she has not claimed any maintenance and this application for maintenance also came to be filed in 2005. It is clear that she has given due regards to the effect that she is earning and she is not entitled for maintenance. It is true that wife has not filed any certificate of her being removed from the service, but that can be decided the court later on.

4. So far as documents annexed with the application viz. medical certificate are concerned, the counsel for the husband contended that they are got up documents. He has to substantiate his contention in the regard. I am concerned at this stage with the ad interim order. Therefore, considering the application of the wife, her illness and also considering the salary and earning of the husband I pass the following order :-

:ORDER:

Respondent/husband to pay Rs.10000/- [Rupees Ten Thousand] towards the medical

expenses to the wife within four weeks from today and, also to pay Rs.1500/- [Rupees One thousand Five hundred] as maintenance per month from the date of filing of the application. The arrears will be cleared by the husband in three equal instalments and he will go on paying Rs.1500/- per month to the wife without fail from 15/05/2005 and on or before 15th of every succeeding month.

Put up the appeal in 1st week of August for hearing.

Certified copy expedited.

[D.G.DESHPANDE]

05/05/2005 JUDGE.